

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

DAHIYAT *et al.*

Application No. 10/665,307

Filed: September 18, 2003

For: *Protein Design Automation for  
Protein Libraries*

Examiner: DEJONG, Eric S.

Art Unit: 1631 Conf. No.: 6927

CERTIFICATE OF ELECTRONIC  
TRANSMISSION UNDER 37 C.F.R. 1.6(a)(4)

I hereby certify that this correspondence, including listed enclosures, is being electronically transmitted in Portable Document Form (PDF) through EFS-Web via Hyper Text Transfer Protocol to the United States Patent and Trademark Office on:

Dated:

*July 5, 2007*

Signed:

*Victoria Linne Poulsen*

Victoria Linne Poulsen

TERMINAL DISCLAIMER TO  
OBVIATE A DOUBLE PATENTING REJECTION

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Petitioner, **Xencor, Inc.** (hereinafter "Xencor"), represents that it is the assignee of the entire right, title, and interest of:

1. The instant application, U.S. Application No. 10/665,307, filed September 18, 2003, pending; which is a divisional of U.S. Application No. 09/782,004, filed February 12, 2001, pending; and
2. U.S. Application No. 09/419,351, filed October 15, 1999, now Patent No. 6,403,312, issued June 11, 2002; and
3. U.S. Application No. 09/782,004, filed February 12, 2001; and
4. U.S. Application No. 09/927,790, filed August 10, 2001.

Application No.: 10/665,307  
Filed: September 18, 2003

An assignment is recorded in the United States Patent and Trademark Office for U.S. Application No. U.S. Application No. 09/419,351, filed October 15, 1999, now Patent No. 6,403,312, issued June 11, 2002, at Reel No. 011517, Frame No. 0330, on February 12, 2001.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Application No. U.S. Application No. 09/782,004, filed February 12, 2001, at Reel No. 019419, Frame No. 0426, on June 13, 2007.

An assignment is recorded in the United States Patent and Trademark Office for U.S. Application No. U.S. Application No. 09/927,790, filed August 10, 2001, at Reel No. 019419, Frame No. 0426, on June 13, 2007.

Xencor hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer of U.S. Application No. 09/419,351, filed October 15, 1999, now Patent No. 6,403,312, issued June 11, 2002; U.S. Application No. 09/782,004, filed February 12, 2001; and 09/927,790, filed August 10, 2001.

Xencor hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Xencor does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Application No. 09/419,351, filed October 15, 1999, now Patent No. 6,403,312, issued June 11, 2002; U.S. Application No. 09/782,004, filed February 12, 2001; and 09/927,790, filed August 10, 2001, as shortened by any terminal disclaimer, in the event that the patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily

Application No.: 10/665,307  
Filed: September 18, 2003

disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

The undersigned is empowered to act on behalf of the petitioner/assignee. The undersigned has reviewed the evidentiary documents in the chain of title of the present application identified above, and certifies that, to the best of assignee's knowledge and belief, title is in the assignee Xencor.

Also included herewith is the terminal disclaimer fee of \$195 (\$65.00 for each terminal disclaimer) under 37 C.F.R. 1.20(d). While Applicants believe that no other fees are due at this time, the Commissioner is authorized to charge any fees, including extension fees or any other relief that may be required, in connection with this reply to Deposit Account 50-0310 (Docket No.: 67461-5041US06).

The undersigned is an attorney or agent of record.

MORGAN, LEWIS & BOCKIUS LLP

Dated:

July 9, 2007

By:

David C. Foster

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*Filed Under 37 C.F.R. 1.34*